IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 26579 of 2006(L)

PETITIONER:

T.M.NOORUDHEEN, S/O.T.N.MUTHALIB,
AGED 59 YEARS, THARAKAN HOUSE, PARIYARAM P.O.,
MUTTIL SOUTH AMSOM, VYTHIRI TALUK,
WAYANAD DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

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1. THE KERALA STATE DEVELOPMENT CORPORATION
FOR SCHEDULED CASTES AND SCHEDULED TRIBES LTD.,
TRICHUR REP. BY ITS MANAGING DIRECTOR.

2. THE REGIONAL MANAGER, KERALA STATE
DEVELOPMENT CORPORATION FOR CASTES AND
SCHEDULED TRIBES LTD., REGIONAL OFFICE,
KALPETTA P.O., VYTHIRI TALUK, WAYANAD DISTRICT.

3. THE DISTRICT COLLECTOR, WAYANAD.

4. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
TALUK OFFICE, VYTHIRI, WAYANAD DISTRICT.

5. P.C.AYYAPPAN, AGED 36 YEARS,
MANDAPAKKUNNU P.O., MUTTIL SOUTH VILLAGE,
VYTHIRI TALUK, WYANAD DISTRICT.

BY SRI.M.K.CHANDRAMOHAN DAS, SC FOR R1
GOVT. PLEADER SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WPC 26579/2006)

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF THE RECEIPT DATED 29.8.01 ISSUED BY THE 2ND RESPONDENT.

EXT.P2 - TRUE COPY OF THE DEMAND NOTICES ISSUED UNDER SECTIONS 7 & 34 OF THE REVENUE RECOVERY ACT BY THE 4TH RESPONDENT PURSUANT TO THE REQUISITION OF THE 2ND RESPONDENT DATED 18.7.2006.

EXT.P3 - TRUE COPY OF THE OBJECTION DATED 18.9.2006 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT WITH COPY MARKED TO THE 4TH RESPONDENT.

RESPONDENTS' EXTS.

EXT.R2(a) – TRUE COPY OF THE LETTER DATED 05.06.2001 SHOWING RECOVERY OF RS.2000.

EXT.R2(b) – TRUE COPY OF THE LETTER DATED 29.08.2001SHOWING RECOVERY OF RS.4000.

EXT.R2(c) - TRUE COPY OF THE LETTER DATED 22.07.2002 TO THE DISTRICT COLLECTOR.

EXT.R2(d) – TRUE COPY OF THE REGISTERED NOTICE DATED 20.04.2005 TO THE PETITIONER.

EXT.R2(e) - TRUE COPY OF THE REQUISITION LETTER TO THE COLLECTOR FOR REVENUE RECOVERY.

EXT.R2(f) - TRUE COPY OF FORM NO.24 SENT ALONG WITH THE REQUISITION TO THE COLLECTOR.

/TRUE COPY/

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 26579 OF 2006-L

JUDGMENT

The petitioner was the guarantor of a loan availed of by the 5th respondent from the 1st respondent Kerala State Development Corporation for Schedules Castes and Scheduled Tribes Ltd. This writ petition is filed by him, challenging Ext.P2 revenue recovery notice issued to recover the amount due to the 1st respondent Corporation. The main contention of the petitioner is that the claim of the 1st respondent is barred by limitation. Therefore, the said respondent cannot validly invoke the revenue recovery proceedings.

2. The respondents have filed a counter affidavit, denying the said allegation. I think, it is a matter to be decided after taking evidence, which could be done by the competent civil court. But, the learned counsel for the petitioner voices his apprehension that the civil court may not entertain a suit in the matter. A suit can be instituted against the 1st respondent, if it is trying to recover an amount barred by limitation. If the 1st respondent is injuncted from proceeding with the recovery, it will be compelled to withdraw the requisition made by it to the revenue recovery officials. If that

be so, the revenue recovery officials cannot proceed with the recovery. So, the bar under the Revenue Recovery Act against entertaining civil suits will not apply in this case. If the civil court is satisfied that the claim of the 1st respondent is barred by limitation, the petitioner is entitled to get relief. The fact that the 1st respondent has taken recourse to the revenue recovery proceedings, will not stand in his way.

The Writ Petition is disposed of without prejudice to the contentions of both sides. The interim order will remain in force for a period of one month from today.

15th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/